

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.6851 of 2016

ORDER:

The petitioner was subjected to detention in custody under order dated 20.01.2016 of the Executive Magistrate in M.C.No.B/73.

Perusal of the order reflects that the same was in consequence to the petitioner failing to furnish security by entering into a bond. It appears that the petitioner filed an application (wrongly titled 'appeal') before the District Magistrate, Mahabubnagar, under Section 123 Cr.P.C. Section 123(1) Cr.P.C. vests the District Magistrate with the power to release any person imprisoned for failing to give security, if he is of the opinion that such release would not be hazardous to the community or any other person. Further, the District Magistrate would also be entitled to take note of the correctness of the order passed by the Executive Magistrate though not in the capacity of an appellate authority.

In that view of the matter, as the petitioner has already chosen to invoke the powers of the District Magistrate, Mahabubnagar, under Section 123 Cr.P.C., the writ petition is disposed of directing the District Magistrate, Mahabubnagar, the 2nd respondent herein, to consider the said application filed by the petitioner and take appropriate action thereon in accordance with law. This exercise shall be completed expeditiously and in any event, not later than one week from the date of receipt of a copy of this order, given the fact that the petitioner is undergoing detention.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

Date:09.03.2016

Note:
Furnish C.C. by tomorrow.
(B/o)
GJ